



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 2

#### TRADING INCOME

VALID FROM 19/07/2006

#### [<sup>F1</sup>CHAPTER 10A

##### LEASES OF PLANT OR MACHINERY: SPECIAL RULES FOR LONG FUNDING LEASES

###### Textual Amendments

- F1** Pt. 2 Ch. 10A, (ss 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

*[<sup>F2</sup>Lessors under long funding finance leases]*

###### Textual Amendments

- F2** Pt. 2 Ch. 10A inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

#### [<sup>F3</sup>148A] **Lessor under long funding finance lease: rental earnings**

- (1) This section applies for the purpose of calculating the profits of a person carrying on a trade for a period of account in which he is the lessor of any plant or machinery under a long funding finance lease.

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- (2) The amount to be brought into account as the lessor's taxable income from the lease for the period of account is the amount of the rental earnings in respect of the lease for the period of account.
- (3) The “rental earnings” for any period is the amount which, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment for that period in respect of the long funding lease where it meets the finance lease test.
- (4) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan in the accounts in question, so much of the rentals under the lease as fall (or would fall) to be treated as interest are to be treated for the purposes of this section as rental earnings.]

#### Textual Amendments

**F3** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

#### **F4** **148B** Lessor under long funding finance lease: exceptional items

- (1) This section applies for the purpose of calculating the profits of a person carrying on a trade for a period of account if he is or has been the lessor under a long funding finance lease.
- (2) This section has effect where a profit or loss (whether of an income or capital nature) —
  - (a) arises to the person in connection with the lease, and
  - (b) in accordance with generally accepted accounting practice falls to be recognised for accounting purposes in a period of account, but
  - (c) would not, apart from this section, be brought into account in calculating the profits of the person.
- (3) The profit or loss is to be treated—
  - (a) in the case of a profit, as income of the person that is attributable to the lease,
  - (b) in the case of a loss, as a revenue expense incurred by the person in connection with the lease.
- (4) Any reference in this section to an amount falling to be recognised for accounting purposes in a period of account is a reference to an amount falling to be recognised for accounting purposes—
  - (a) in the person's profit and loss account or income statement,
  - (b) in the person's statement of recognised gains and losses or statement of changes in equity, or
  - (c) in any other statement of items brought into account in computing the person's profits or losses for that period.]

#### Textual Amendments

**F4** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

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### **Lessor under long funding finance lease making termination payment**

**F5 148C**

- (1) This section applies for the purpose of calculating the profits of a person carrying on a trade for a period of account if he is or has been the lessor under a long funding finance lease.
- (2) Where—
  - (a) the lease terminates, and
  - (b) a sum calculated by reference to the termination value is paid to the lessee, no deduction in respect of the sum paid to the lessee is allowed in calculating the profits of the person.
- (3) This section does not prevent a deduction in respect of a sum to the extent that the sum is brought into account in determining the person's rental earnings.]

#### **Textual Amendments**

**F5** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\), s. 81, Sch. 8 para. 13](#)

### *[F6] Lessors under long funding operating leases*

#### **Textual Amendments**

**F6** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\), s. 81, Sch. 8 para. 13](#)

### **Lessor under long funding operating lease: periodic deduction**

**F7 148D**

- (1) This section applies for the purpose of calculating the profits of a person carrying on a trade in a period of account—
  - (a) for the whole of which, or
  - (b) for any part of which,
 the person is the lessor of any plant or machinery under a long funding operating lease.
- (2) A deduction is allowed in calculating the profits of the person for the period of account.
- (3) The amount of the deduction for any period of account is determined as follows.
- (4) First, find the “relevant value” for the purposes of subsection (6)(a), which is—
  - (a) if the only use of the plant or machinery by the lessor has been the leasing of it under the long funding operating lease as a qualifying activity, cost;
  - (b) if the last previous use of the plant or machinery by the lessor was the leasing of it under another long funding operating lease as a qualifying activity, market value;
  - (c) if the last previous use of the plant or machinery by the lessor was the leasing of it under a long funding finance lease as a qualifying activity, the recognised value;

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- (d) if the last previous use of the plant or machinery by the lessor was for the purposes of a qualifying activity other than leasing under a long funding lease, the lower of cost and market value;
- (e) if the lessor owns the plant or machinery as a result of having incurred expenditure on its provision for purposes other than those of a qualifying activity, but—
- (i) the plant or machinery is brought into use by the lessor for the purposes of a qualifying activity on or after 1st April 2006, and
  - (ii) that qualifying activity is the leasing of the plant or machinery under the long funding lease,
- the relevant value is the lower of first use market value and first use amortised value.
- (5) In subsection (4)—
- “cost” means the amount of the expenditure incurred by the lessor on the provision of the plant or machinery;
- “first use amortised value” means the value that the plant or machinery would have at the time when it is first brought into use for the purposes of the qualifying activity, on the assumption that—
- (a) the cost of acquiring the plant or machinery had been written off on a straight line basis over the remaining useful economic life of the plant or machinery, and
  - (b) any further capital expenditure incurred had been written off on a straight line basis over so much of the remaining economic life of the plant or machinery as remains at the time when the expenditure is incurred;
- “first use market value” means the market value of the plant or machinery at the time when it is first brought into use for the purposes of the qualifying activity;
- “market value” means the market value of the plant or machinery at the commencement of the term of the long funding operating lease;
- “recognised value” means the value at which the plant or machinery is recognised in the books or other financial records of the lessor at the commencement of the long funding operating lease.
- (6) From—
- (a) the relevant value determined in accordance with subsection (4), subtract
  - (b) the amount which, at the commencement of the term of the lease, is (or, in a case falling within subsection (4)(e), would have been) expected to be the residual value of the plant or machinery,
- to find the expected gross reduction in value over the term of the lease.
- (7) Apportion the amount of that expected gross reduction in value to each period of account in which any part of the term of the lease falls.
- (8) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each period of account.
- (9) The amount of the deduction for any period of account is the amount so apportioned to that period.]

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### Textual Amendments

**F7** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

### **F8** 148E Long funding operating lease: lessor's additional expenditure

- (1) This section applies if, in a period of account,—
- a person carrying on a trade is the lessor of any plant or machinery under a long funding operating lease,
  - the person incurs capital expenditure in relation to the plant or machinery, and
  - that capital expenditure (the “additional expenditure”) is not reflected in the market value of the plant or machinery at the commencement of the term of the lease.
- (2) In a case falling within section 148D(4)(e), subsection (1)(c) has effect as if the reference to the commencement of the term of the lease were a reference to the time when the plant or machinery is first brought into use by the lessor for the purposes of the qualifying activity.
- (3) Where this section applies, an additional deduction is allowed in calculating the profits of the person for each post-expenditure period of account in which the person is the lessor of the plant or machinery under the lease.
- (4) The amount of the deduction for any such period of account is to be determined as follows.
- (5) Find ARV, CRV, PRV and TRV where—
- “ARV” is the amount which, at the time when the additional expenditure is incurred, is expected to be the residual value of the plant or machinery;
  - “CRV” is the amount which, at the commencement of the term of the lease, is expected to be the residual value of the plant or machinery;
  - “PRV” is the sum of any amounts that fell to be taken into account as RRV (see subsection (6)) in the application of this section in relation to any previous additional expenditure incurred by the person in relation to the leased plant or machinery;
  - “TRV” is the total of CRV and PRV.
- (6) Find RRV, where—
- if ARV exceeds CRV, RRV is the portion of the excess that is a result of the additional expenditure, but
  - if ARV does not exceed CRV, RRV is nil.
- (7) From—
- the amount of the additional expenditure, subtract
  - RRV,
- to find the expected partial reduction in value over the remainder of the term of the lease.

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- (8) Apportion the amount of that expected partial reduction in value to each post-expenditure period of account in which any part of the term of the lease falls.
- (9) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each post-expenditure period of account.
- (10) The amount of the additional deduction for any period of account is the amount so apportioned to that period.
- (11) In this section “post-expenditure period of account” means any period of account ending after the incurring of the additional expenditure.]

#### Textual Amendments

**F8** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

#### **[ F9 148F Lessor under long funding operating lease: termination of lease**

- (1) This section applies for the purpose of calculating the profits of a person carrying on a trade in a period of account if—
  - (a) a long funding operating lease terminates in that period of account, and
  - (b) the person is the lessor under that lease immediately before the termination.
- (2) Step 1 is to find—
  - (a) the termination amount (TA);
  - (b) the total of any sums paid to the lessee that are calculated by reference to the termination value (LP).
- (3) Step 2 is to find—
  - (a) the relevant value for the purposes of section 148D(6)(a) (RV);
  - (b) the total of the deductions allowable under section 148D for periods of account for the whole or part of which the person was the lessor before the termination of the lease (TD1);
  - (c) the amount, if any, (ERV) by which RV exceeds TD1.
- (4) Step 3 is to find—
  - (a) the total of any amounts of capital expenditure incurred by the person which constitute additional expenditure for the purposes of section 148E in the case of the lease (TAE);
  - (b) the total of any deductions allowable under section 148E for periods of account for the whole or part of which the person was the lessor before the termination of the lease (TD2);
  - (c) the amount, if any, (EAE) by which TAE exceeds TD2.
- (5) Step 4 is to find the total of ERV and EAE (T).
- (6) If (TA ? LP) exceeds T, treat a profit of an amount equal to the excess as arising to the person in the period of account in which the lease terminates.
- (7) If T exceeds (TA ? LP), treat a loss of an amount equal to the excess as arising to the person in that period of account.

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- (8) A profit or loss treated as arising to the person under subsection (6) or (7) is to be treated—
- (a) in the case of a profit, as income of the person attributable to the lease,
  - (b) in the case of a loss, as a revenue expense incurred by the person in connection with the lease.
- (9) In calculating the profits of the person for the period, no deduction is allowed in respect of any sums paid to the lessee that are calculated by reference to the termination value.]

#### Textual Amendments

**F9** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

#### *[<sup>F10</sup> Lessees under long funding finance leases]*

#### Textual Amendments

**F10** Pt. 2 Ch. 10A inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

#### **[<sup>F11</sup> 148G Lessee under long funding finance lease: limit on deductions**

- (1) This section applies for the purpose of calculating the profits of a person carrying on a trade, profession or vocation for a period of account in which the person is the lessee of any plant or machinery under a long funding finance lease.
- (2) In calculating the person's profits for the period of account,—
- (a) the amount deducted in respect of amounts payable under the lease, must not exceed
  - (b) the amounts which, in accordance with generally accepted accounting practice, fall (or would fall) to be shown in the person's accounts as finance charges in respect of the lease.
- (3) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, subsection (2) applies as if the lease were one which, under generally accepted accounting practice, fell to be treated as a finance lease.]

#### Textual Amendments

**F11** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

#### **[<sup>F12</sup> 148H Lessee under long funding finance lease: termination**

- (1) This section applies where—
- (a) a person carrying on a trade, profession or vocation is or has been the lessee under a long funding finance lease, and



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- (b) in connection with the termination of the lease, a payment calculated by reference to the termination value falls to be made to the person.
- (2) The payment is not to be brought into account in calculating the profits of the person for any period of account.
- (3) Subsection (2) does not affect the amount of any disposal value that falls to be brought into account by the person under CAA 2001.]

#### Textual Amendments

**F12** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

*[<sup>F13</sup>Lessees under long funding operating leases]*

#### Textual Amendments

**F13** Pt. 2 Ch. 10A inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

### **148I Lessee under long funding operating lease**

**F14**

- (1) This section applies for the purpose of calculating the profits of a person carrying on a trade, profession or vocation for a period of account in which the person is the lessee of any plant or machinery under a long funding operating lease.
- (2) The deductions that may be allowed in calculating the profits of the person for the period of account are to be reduced in accordance with the following provisions of this section.
- (3) The amount of the reduction for any period of account is to be determined as follows.
- (4) First, find the “relevant value” for the purposes of subsection (6)(a), which is—
- (a) the market value of the plant or machinery at the commencement of the term of the lease, unless paragraph (b) applies;
  - (b) if the lessee—
    - (i) owns the plant or machinery as a result of having incurred expenditure on its provision for purposes other than those of a qualifying activity, but
    - (ii) brings the plant or machinery into use for the purposes of a qualifying activity on or after 1st April 2006,
 the lower of first use market value and first use amortised market value.
- (5) In subsection (4)—
- “first use amortised market value” means the value that the plant or machinery would have—
- (a) at the time when it is first brought into use for the purposes of the qualifying activity, but
  - (b) on the assumption that the market value of the plant or machinery at the commencement of the term of the lease had been written off on a



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straight line basis over the remaining useful economic life of the plant or machinery;

“first use market value” means the market value of the plant or machinery at the time when it is first brought into use for the purposes of the qualifying activity.

- (6) From—
- (a) the relevant value determined in accordance with subsection (4), subtract
  - (b) the amount which, at the commencement of the term of the lease, is (or, in a case falling within subsection (4)(b), would have been) expected to be the market value of the plant or machinery at the end of the term of the lease, to find the expected gross reduction over the term of the lease.
- (7) Apportion the amount of that expected gross reduction to each period of account in which any part of the term of the lease falls.
- (8) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each period of account.
- (9) The amount of the reduction for any period of account is the amount so apportioned to that period.]

#### Textual Amendments

**F14** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

#### [<sup>F15</sup>Interpretation of this Chapter]

#### Textual Amendments

**F15** Pt. 2 Ch. 10A inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

#### Interpretation of Chapter 10A

[<sup>F16</sup>148J

- (1) This section has effect for the interpretation of this Chapter.
- (2) In this Chapter—
- “qualifying activity” has the same meaning as in Part 2 of CAA 2001;
  - “residual value”, in relation to any plant or machinery leased under a long funding operating lease, means—
    - (a) the estimated market value of the plant or machinery on a disposal at the end of the term of the lease,
    - less
    - (b) the estimated costs of that disposal.
- (3) Any reference in this Chapter to a sum being written off on a straight line basis over a period of time (the “writing-off period”) is a reference to—

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- (a) the sum being apportioned between each of the periods of account in which any part of the writing-off period falls,
  - (b) that apportionment being made on a time basis, according to the proportion of the writing-off period that falls in each of the periods of account, and
  - (c) the sum being written off accordingly.
- (4) Chapter 6A of Part 2 of CAA 2001 (interpretation of that Part so far as relating to long funding leases) also applies for the purposes of this Chapter.]]

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**Textual Amendments**

**F16** Pt. 2 Ch. 10A, (ss. 148A-148J) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 81, [Sch. 8 para. 13](#)

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